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**From:** Bowman, Liz  
**Sent:** Fri 5/4/2018 12:39:08 PM  
**Subject:** Re: FOR REVIEW: EPA News Highlights 5.4.18

Looks good

Sent from my iPhone

On May 4, 2018, at 8:38 AM, Block, Molly <block.molly@epa.gov> wrote:

### **EPA News Highlights 5.4.18**

#### **Bloomberg Environmental: EPA Tailoring Superfund Agreements for Concerned Companies**

Third parties that want to take on Superfund site projects can expect more personalized attention and customized agreements from the EPA, as the agency moves to redevelop contaminated properties. The Environmental Protection Agency is targeting companies' contamination liability concerns at the site level, pushing more tailored, site-specific agreements in addition to using agency-wide guidance, Cyndy Mackey, director of the agency's Office of Site Remediation Enforcement, told Bloomberg Environment May 3. Those changes are enticing more private investors to step in, clean up, and redevelop the country's most contaminated sites, the agency said.

#### **Politico: EPA Narrows Guidelines for Aggregating Sources for Air Permitting**

EPA will alter its interpretation of when related facilities are considered a single source for air permitting purposes in a way that could ease their permitting requirements. Permitting rules say that plants located near each other should be aggregated for permitting purposes if they are operated by the same entity, known as "common control." In that case, the facilities' emissions can be aggregated and be subject to more stringent permitting requirements than if treated separately. In an April 30 memo concerning a common control designation for a Pennsylvania landfill and nearby biogas processing facility that are owned by different companies, EPA air chief Bill Wehrum revised the agency's interpretation so that facilities meet the definition if one entity has "the power or authority ... to dictate decisions of the other that could affect the applicability of, or compliance with, relevant air pollution regulatory requirements."

### **Washington Examiner: US Charges Ex-Volkswagen CEO Martin Winterkorn in Emissions Scandal**

A federal grand jury has charged former Volkswagen CEO Martin Winterkorn with wire fraud in what prosecutors say was a long-running scheme to cheat diesel-emission standards for U.S. vehicles. Environmental Protection Agency Administrator Scott Pruitt said the indictment sends “a clear message that EPA and its law enforcement partners will seek to hold corporate officers accountable for alleged criminal activities.”

### **National News Highlights 5.4.18**

#### **Reuters: Months After Parkland Shooting, Trump to Embrace NRA in Rally-Like Speech**

President Donald Trump, who briefly pledged to “fight” the National Rifle Association after a February mass shooting at a Florida high school, is expected to throw his full weight behind the powerful gun rights group on Friday at an event in Dallas.

#### **CNBC: Special Counsel Robert Mueller Focusing Sharply on Links Between Trump Confidant Roger Stone and Former Campaign Official Rick Gates, Sources Say**

Special counsel Robert Mueller is focusing intensely on alleged interactions between former top Trump campaign official Rick Gates and political operative Roger Stone, one of President Donald Trump's closest confidants, according to sources with direct knowledge of the matter. Stone, a longtime advisor to Trump, is apparently one of the top subjects of the Mueller investigation into potential collusion between the Kremlin and the Trump campaign, sources told CNBC on condition of anonymity. The questions have been largely about what was discussed at meetings, including dinners, between Stone and Gates, before and during the campaign, said the sources, who have knowledge of the substance of the recent interviews.

#### **Wall Street Journal: The Kentucky Derby Favorite Is Seeking to Outrun a Ghost**

Bob Baffert is a four-time Kentucky Derby-winning trainer with a stable full of champion thoroughbreds, most recently sweeping the Triple Crown with American Pharoah in 2015.

He often works with the sport's best horses, so it wasn't particularly noteworthy when a young colt named Justify entered his barn late last year. Justify went on to win his debut race in February and is undefeated in three starts, securing a berth in the Kentucky Derby after an easy three-length win in the Santa Anita Derby on April 7. That was enough for Churchill Downs oddsmaker Mike Battaglia to tap Justify as the 3-1 favorite, even though the Run for the Roses will be Justify's first race outside of the state of California.

## **TRUMP TWEETS**

# **Bloomberg Environment**

<https://news.bloombergenvironment.com/environment-and-energy/epa-tailoring-superfund-agreements-for-concerned-companies>

## **EPA Tailoring Superfund Agreements for Concerned Companies**

By Sylvia Carignan, 5/3/18

Third parties that want to take on Superfund site projects can expect more personalized attention and customized agreements from the EPA, as the agency moves to redevelop contaminated properties.

The Environmental Protection Agency is targeting companies' contamination liability concerns at the site level, pushing more tailored, site-specific agreements in addition to using agency-wide guidance, Cyndy Mackey, director of the agency's Office of Site Remediation Enforcement, told Bloomberg Environment May 3.

Those changes are enticing more private investors to step in, clean up, and redevelop the country's most contaminated sites, the agency said.

### **Renewed Interest**

Those third parties are often environmental remediation companies and redevelopers that are willing to take on cleanup risks. The site-specific agreements address their concerns regarding their responsibilities at contaminated sites and the potential for future liabilities.

"We have seen an uptick in interest with those agreements," Mackey said.

Previously, third parties interested in Superfund sites had to rely on statutory protections to determine whether they are liable for contamination. The site-specific approach, which

comes from the agency's Superfund task force, helps manage third parties' cleanup expectations and liability concerns, she said.

EPA Administrator Scott Pruitt's task force specifically focuses on making changes to the Superfund program that don't require legislation. In more than 40 recommendations, the task force details administrative ways the agency can ensure accountability, accelerate cleanup, and prepare sites for reuse.

Superfund sites are the most contaminated in the country, and include the Gowanus Canal in New York, Portland Harbor in Oregon, and Tar Creek in Oklahoma. Properties with the EPA's Superfund designation are eligible to receive federal funds for cleanup, though the agency aims to compel companies responsible for the sites, or third parties, to pay the cleanup bills.

### From HQ to Regions

The two types of site-specific agreements that the EPA seeks to promote are bona fide prospective purchaser agreements and prospective purchaser agreements. The EPA's headquarters office is encouraging regional offices to use them more frequently. Both require the approval of the Department of Justice.

The bona fide prospective purchaser provision in the 2002 brownfields act protects landowners from liability for cleanup costs. The agreement is valid only if they meet certain conditions. These include reviewing records and inspecting the site for the presence or possibility of contamination, demonstrating that the purchaser is not affiliated with any liable party, complying with land use restrictions, and cooperating with information requests.

Prospective purchaser agreements center on the EPA's promise not to sue a party that could buy contaminated property. Certain conditions also must be met for these agreements.

The agency also is reviewing the content of those agreements to determine whether their templates should be revised, the EPA noted in guidance signed April 17.

### Third-Party Liability

But third parties looking to take on contaminated sites may have another reason to hesitate, after an April 27 ruling from the U.S. Court of Appeals for the Ninth Circuit.

In California Department of Toxic Substances Control v. Westside Delivery, the court ruled that a third party, Westside Delivery, was liable for the costs of cleanup the state performed at Westside's contaminated property in Los Angeles.

Westside acquired the property in a tax sale and didn't interact directly with the original owner, the Davis Chemical Co., which recycled spent solvents at the site. A 1992 EPA assessment of the site found significant spillage, according to court documents.

The defendant argued that it was protected from liability under Superfund law, but the court disagreed.

“This decision reinforces the golden rule of acquiring industrial property—look before you leap,” Peter Hsiao, partner at Morrison Foerster LLP in Los Angeles, told Bloomberg Environment in an email. Hsiao’s practice includes Superfund litigation and other types of environmental law.

On the other hand, the case may not affect many third parties that are interested in buying contaminated sites, Bart Seitz, partner at Baker Botts LLP in Washington, told Bloomberg Environment.

“On the narrow facts of this case, I don’t think it’s that common,” he said. Seitz represents companies involved in Superfund litigation.

The EPA is reviewing the court’s decision and will determine whether any changes need to be made to site-specific agreements or guidance, Mackey said.

## Politico

<https://subscriber.politicopro.com/energy/whiteboard/2018/05/epa-narrows-guidelines-for-aggregating-sources-for-air-permitting-1157347>

### **EPA Narrows Guidelines for Aggregating Sources for Air Permitting**

By Alex Guillen, 5/3/18

EPA will alter its interpretation of when related facilities are considered a single source for air permitting purposes in a way that could ease their permitting requirements.

Permitting rules say that plants located near each other should be aggregated for permitting purposes if they are operated by the same entity, known as “common control.” In that case, the facilities’ emissions can be aggregated and be subject to more stringent permitting requirements than if treated separately.

In an April 30 memo concerning a common control designation for a Pennsylvania landfill and nearby biogas processing facility that are owned by different companies, EPA air chief Bill Wehrum revised the agency's interpretation so that facilities meet the definition if one entity has “the power or authority ... to dictate decisions of the other that could affect the applicability of, or compliance with, relevant air pollution regulatory requirements.”

A dependent relationship should not necessarily mean common control, he added. Facilities can be "economically or operationally interconnected" without being able to direct the other.

In the immediate case of the Pennsylvania landfill and processing plant, Wehrum concluded that the two are not commonly controlled because the landfill could otherwise meet methane emissions limits by burning off biogas and because the processing plant hopes to secure other sources of biogas.

WHAT'S NEXT: Ultimately, EPA's reasoning is only a recommendation. Pennsylvania regulators have the final say on whether these particular facilities fall under "common control."

## Washington Examiner

<https://www.washingtonexaminer.com/business/us-charges-ex-volkswagen-ceo-martin-winterkorn-in-emissions-scandal>

### US Charges Ex-Volkswagen CEO Martin Winterkorn in Emissions Scandal

By James Langford, 5/3/18

A federal grand jury has charged former Volkswagen CEO Martin Winterkorn with wire fraud in what prosecutors say was a long-running scheme to cheat diesel-emission standards for U.S. vehicles.

Winterkorn, 70, and other senior executives of the German carmaker conspired for about nine years to mislead investors and U.S. consumers about the ability of its "clean diesel" vehicles to comply with the country's rules, according to an [indictment](#) unsealed Thursday in U.S. District Court in Michigan. Winterkorn, who stepped down from the top job shortly after the federal investigation began, also faces three counts of wire fraud in a scandal that has weighed on the company's U.S. stock for more than two years.

"If you try to deceive the United States, then you will pay a heavy price," Attorney General Jeff Sessions, an appointee of President Trump, said in a statement. "The indictment unsealed today alleges that Volkswagen's scheme to cheat its legal requirements went all the way to the top of the company. These are serious allegations, and we will prosecute this case to the fullest extent of the law."

Environmental Protection Agency Administrator Scott Pruitt said the indictment sends "a clear message that EPA and its law enforcement partners will seek to hold corporate officers accountable for alleged criminal activities."

According to the indictment, Winterkorn and other Volkswagen executives implemented software that made VW and Audi diesel vehicles appear to meet U.S. emissions standards when they didn't, thus boosting the company's sales and, potentially, their own incomes.

The so-called defeat device, which tightened engine emission controls enough to meet requirements when the software recognized a test was being performed, was developed after VW executives realized the carmaker was unable to build a diesel engine that was both compliant and had market appeal, prosecutors said.

Under normal driving conditions, which the software also recognized, the diesel engines' emission-control systems were much less effective, allowing them to pump as much as 35 times more nitrogen oxides into the environment than U.S. regulators allowed, according to the indictment. The pollutants contribute to both smog and acid rain.

The Justice Department and the EPA notified Volkswagen of the investigation in late September 2015, and the company promised to cooperate. Winterkorn relinquished his roles as CEO and chairman of the supervisory board five days later.

"I am doing this in the interests of the company, even though I am not aware of any wrong doing on my part," he said at the time. "Volkswagen needs a fresh start — also in terms of personnel. I am clearing the way for this fresh start with my resignation."

The company's U.S. shares have climbed 8.2 percent since the investigation was disclosed, trailing 32 percent growth on the broader S&P 500.

Volkswagen "continues to cooperate with investigations by the Department of Justice," said Pietro Zollino, a company spokesman. "It would not be appropriate to comment on individual cases."

## Reuters

<https://www.reuters.com/article/us-usa-guns-trump/months-after-parkland-shooting-trump-to-embrace-nra-in-rally-like-speech-idUSKBN1I50ZR>

### **Months After Parkland Shooting, Trump to Embrace NRA in Rally-Like Speech**

By Jeff Mason, 5/4/18

President Donald Trump, who briefly pledged to "fight" the National Rifle Association after a February mass shooting at a Florida high school, is expected to throw his full weight behind the powerful gun rights group on Friday at an event in Dallas.

In addressing the gun lobbying group's annual convention, the Republican president will emphasize his support for gun rights in political terms, likely claiming again that Democrats want to take away Americans' firearms, a White House official said.

This will be Trump's fourth speech to the powerful NRA and, with control of the U.S. Congress up for grabs in November's midterm elections and campaigns under way, it is expected to include familiar warnings meant to excite the Republican voter base.

"These things typically are pretty 'rah, rah Second Amendment' types of addresses," the official said, adding that Trump likely will say that Democrats oppose the constitutional amendment that protects gun ownership.

The massacre that killed 17 people at Marjory Stoneman Douglas High School in Parkland, Florida, on Feb. 14 seemed to mark a turning point in America's long-running gun debate, sparking a youth-led movement for tighter gun controls.

Days after the shooting, Trump promised action on gun regulation and at a gathering of state officials, said this of the NRA: "We have to fight them every once in a while."

Since then, no major new federal gun controls have been imposed, although the administration is pursuing a proposed regulatory ban on bump stocks of the sort used in an October 2017 mass shooting in Las Vegas that killed 59 people.

A bump stock allows a semi-automatic rifle to fire like an automatic one. Semi-automatic assault rifles are sold widely in the United States, which has the world's highest per capita gun ownership rates. The NRA has fiercely defended America's gun ownership rights for many years, citing the Second Amendment.

## RHETORICAL SHIFT

Since Parkland, Trump has largely moved his rhetoric back in line with the NRA, which endorsed him in his 2016 presidential election campaign and gave him its financial backing.

The group's convention in Texas will attract a strongly pro-Trump crowd, officials said, giving the president room to take some swipes at his opponents, review his record in office and complain about Special Counsel Robert Mueller's investigation of possible collusion between Trump's 2016 campaign and Russia.

The event was likely to be "reminiscent of rallies past," a second White House official said.

A Reuters/Ipsos poll found in March 2018 that 54 percent of adults wanted "strong regulations or restrictions" for firearms. That was up from 39 percent in a similar poll from April 2012.

Among Republicans in the poll, 40 percent wanted strong regulations or restrictions in



March 2018, up from 22 percent in April 2012.

Trump met with NRA officials privately at the White House twice in February as he mulled policy responses to the shooting. He eventually endorsed an NRA proposal to arm teachers, a step the group said would help prevent mass school shootings. Gun control activists generally oppose that idea.

Trump initially expressed enthusiasm for measures to close loopholes for gun buyers seeking to avoid the background check system, raise the age limit for buying rifles, and find ways to seize guns temporarily from people reported to be dangerous.

He has since endorsed more modest proposals, such as legislation aimed at providing more data for the background check system. He did not endorse closing a loophole in existing law that would require background checks for guns bought at guns shows or sales arranged over the internet.

## CNBC

<https://www.cnbc.com/2018/05/03/mueller-focuses-on-links-between-roger-stone-trump-campaign-aide-gates.html>

### **Special Counsel Robert Mueller Focusing Sharply on Links Between Trump Confidant Roger Stone and Former Campaign Official Rick Gates, Sources Say**

By Brian Schwartz, 5/3/18

Special counsel Robert Mueller is focusing intensely on alleged interactions between former top Trump campaign official Rick Gates and political operative Roger Stone, one of President Donald Trump's closest confidants, according to sources with direct knowledge of the matter.

Stone, a longtime advisor to Trump, is apparently one of the top subjects of the Mueller investigation into potential collusion between the Kremlin and the Trump campaign, sources told CNBC on condition of anonymity.

The questions have been largely about what was discussed at meetings, including dinners, between Stone and Gates, before and during the campaign, said the sources, who have knowledge of the substance of the recent interviews.

In February, Gates pleaded guilty to two counts stemming from the Russia investigation, and he is cooperating with Mueller's probe.

The new developments indicate that Mueller's team is interested in Stone beyond his interactions with Wikileaks founder Julian Assange during the campaign.

An attorney for Stone, Robert Buschel, did not deny discussions took place between his client and Gates, but sought to downplay their importance.

"Roger Stone did not have any substantive or meaningful interaction with Rick Gates during or leading up to the 2016 campaign," Buschel told CNBC in a statement.

An attorney for Gates declined to comment. The special counsel's office declined to comment.

The link between Gates and Stone goes back to their work at what had been one of the most powerful lobbying firms in Washington, which was founded by Stone along with former Trump campaign chairman Paul Manafort. The special counsel's probe has yielded two indictments against Manafort, who is accused of several crimes, including bank fraud and conspiracy against the United States.

Gates joined the firm as an intern more three decades ago, and it is unclear how much work he did with Stone at the time.

The firm, called Black, Manafort, Stone and Kelly, was known for its work to help improve the image of controversial politicians, including Ferdinand Marcos of the Philippines, Mobutu Sese Seko of the Democratic Republic of the Congo and the Russian-aligned former president of Ukraine, Viktor Yanukovich.

Gates joined the Trump campaign in the spring of 2016 and became Manafort's deputy. It was there where he became close to many of Trump's confidants. He remained with the campaign even after Manafort's ouster. Gates then worked on Trump's inaugural committee and co-founded the pro-Trump nonprofit group America First Policies.

In March, Gates was pulled into the Mueller inquiry when the special counsel's office filed a motion that claimed the former campaign aide had contact with a former agent of the Russian intelligence service in 2016. This came after Gates pleaded guilty to lying and conspiring against the United States, which could lead to possibly six years in prison. A sentencing date has yet to be announced.

For Stone, this is another potential hurdle in an ongoing investigation that continues to focus on him, among others.

Sam Nunberg, a former Trump campaign advisor, also said he was asked about Stone's involvement with Wikileaks during his interview before Mueller's grand jury in March.

"Roger is certainly a subject," Nunberg said. "The fact that Roger hasn't been called in and the special counsel continues to ask questions about Roger's possible activities during the election shows that at the very least he's a subject."

Stone allegedly met with Assange, the Wikileaks founder, in August 2016. In an email leaked to The Wall Street Journal, Stone said, "I dined with my new pal Julian Assange last nite."

Stone has denied that he has met with the Wikileaks founder and said the email was in jest.

During the 2016 campaign, Wikileaks published emails allegedly stolen from the Democratic National Committee's servers by a Russia-linked hacker known as "Guccifer 2.0."

## Wall Street Journal

<https://www.wsj.com/articles/the-kentucky-derby-favorite-is-seeking-to-outrun-a-ghost-1525431686>

### **The Kentucky Derby Favorite Is Seeking to Outrun A Ghost**

By Jim Chairusmi, 5/4/18

Bob Baffert is a four-time Kentucky Derby-winning trainer with a stable full of champion thoroughbreds, most recently sweeping the Triple Crown with American Pharoah in 2015. He often works with the sport's best horses, so it wasn't particularly noteworthy when a young colt named Justify entered his barn late last year.

"I just can't remember offhand," Baffert said last month about his earliest memories of Saturday's Kentucky Derby favorite.

But it didn't take long for the 65-year-old Baffert to take notice, after he saw the chestnut colt breeze in a workout at Santa Anita Park.

The dirt track at Santa Anita is deep and many horses can struggle over the surface, Baffert said. But not Justify.

"The first time I worked him [there] I knew he was something really special," Baffert said. "He just went around there and just did it effortlessly. And that's when I knew he was really a cut above the rest."

Justify went on to win his debut race in February and is undefeated in three starts, securing a berth in the Kentucky Derby after an easy three-length win in the Santa Anita Derby on April 7. That was enough for Churchill Downs oddsmaker Mike Battaglia to tap Justify as the 3-1 favorite, even though the Run for the Roses will be Justify's first race outside of the

state of California.

But besides trying to beat 19 rivals to the finish line on Saturday, Justify and Baffert are also running against history. A horse that didn't race as a 2-year-old hasn't won the Kentucky Derby since a gelding named Apollo accomplished the feat in 1882. Since statistics were first kept in 1937, 61 horses have entered the Derby without racing at the age of 2. All have lost and only eight of the 61 even finished in the top-3.

The Kentucky Derby, a race in which only 3-year-old horses are eligible, is a stiff test for still-maturing thoroughbreds, with a large field and a boisterous crowd of over 150,000 fans, contested at a distance (1 ¼ miles) farther than any horse in the field has ever run. As a result, the popular consensus among horsemen has been to establish a racing foundation for a horse at an early age before attempting to run in classic races such as the Derby, Preakness and Belmont Stakes.

"The lack of experience is a very tough thing to overcome but in the case of Justify, if he had started at 2, he might not be in the position he is in today as the favorite," said Simon Bray, a former trainer and current analyst for the racing network TVG. "Physically, he's so big. I don't think he would have been as developed racing as a 2-year-old.

Hall of Fame jockey Jerry Bailey said the most impressive part about Justify is how quickly he's turned into a star, akin to a freshman in high school making the leap straight to the NBA.

"Justify is particularly challenged because [in addition] to not racing at age 2, he didn't even race until Feb. 18."

The so-called Curse of Apollo is something Baffert has heard a lot about, having come within 1 1/2 lengths of breaking it in 2012, when his trainee Bodemeister, who also didn't race as a 2-year-old, was overtaken just steps from the wire by I'll Have Another.

"The Apollo thing," Baffert said. "Whether it happens this year or whatever, it will happen."

Baffert said a big reason the streak hasn't been broken is that trainers used to start horses much earlier in their racing careers, something he said isn't fully the case now. "Trainers take their time. They don't run them as early 2-year-olds anymore," he said. "So I think the game has changed."

Bailey said an "exceptional" talent can overcome a lack of race experience.

"In this day and age, an inexperienced horse that didn't race at the age of 2, isn't running against horses that have run 10 times, 12 times, like they did 25 years ago. Most of the horses in the field are relatively lightly raced, so the disparity isn't as great," said Bailey, who is now an analyst for NBC Sports.

Trainer Todd Pletcher conditions Magnum Moon, the other late-developing, undefeated colt in this year's Derby field who is also looking to outrun the ghost of Apollo on Saturday.

"It's lasted long enough that I guess there has to be something to it. But I feel strongly that at some point someone's going to reverse the curse," Pletcher said.

Looking at the full field for the Derby, Bailey sees Justify as the likeliest winner.

"Magnum Moon is a good horse but I think Justify is several lengths faster than him. And probably several lengths faster than almost all of the field, except maybe Mendelssohn," said Bailey.

Coincidentally, the horse many consider to be the biggest threat to Justify in the Derby actually comes from the same bloodline. Mendelssohn—who secured a berth with an 18 1/2 length victory in the UAE Derby--and Justify were both sired by Scat Daddy. But horses by the same stallion, but birthed by a different dam (mother), are not considered related. Mendelssohn, conditioned by Irish trainer Aidan O'Brien, has won four of seven career starts.

Bray said he and Baffert were chatting one morning before the UAE Derby in Dubai when Baffert pointed to Mendelssohn.

"Baffert said, 'That horse is going to win the UAE Derby. The problem is, he's only the second-best Scat Daddy in the world right now. I have the best one.'"

## TRUMP TWEETS

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